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**MAILED**

**MAY 31 2005**

**Technology Center 2100**

In re Application of: CURLEY et al. )  
Application No. 09/740,804 ) **DECISION ON PETITION TO**  
Attorney Docket No. 2452-17 ) **WITHDRAW HOLDING OF**  
Filed: December 21, 2000 ) **ABANDONMENT UNDER 37 CFR**  
For: METHOD AND APPARATUS FOR ) **§1.181 or 37 CFR 1.8(b)**  
PROVIDING MEASUREMENT, AND )  
UTILIZATION OF, NETWORK LATENCY  
IN TRANSACTION-BASED PROTOCOLS

This is a decision on the petition, filed February 18, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition under 37 CFR §1.181.

The Petition is **GRANTED**, under 37 CFR 1.181.

The application was abandoned for failure to file a timely response to the Non Final Action mailed May 20, 2004. Notice of Abandonment was mailed January 19, 2005. A grantable petition must include a copy of the response and proof of timely filing of the response. No fee is required.

In support of the petition, Petitioner provides a facsimile cover sheet showing the following were submitted in the facsimile transmission a 14 page reply including:

- 1) a 2-page Certificate of Mailing and Transmittal Letter
- 2) a 3-page Petition to Withdraw the Holding of Abandonment
- 3) a 2-page Copy of the Notice of Abandonment and Cover Sheet
- 4) a 2-page Copy of the Transmittal Letter filed with the Response (2 Copies)
- 5) a 13 page Copy of the Amendment with Remarks
- 6) a 1-page Copy of the Notice of Abandonment
- 7) a 2-page Copy of Prepaid Postcards (File Copy)
- 8) a 2-page Copy of the return receipt of the Prepaid Postcards
- 9) a 1-page Copy of the Power of Attorney and
- 10) a 1-page Copy of the Change of Correspondence Address

Of the documents listed on the cover sheet, Petitioner submitted a copy of the original response (13 pages) to the Non Final Action dated May 20, 2004, a Petition to Withdraw (3-pages) the holding of Abandonment, and a post card receipt (2-pages) of the amendment stamped by OIPE on August 18, 2004.

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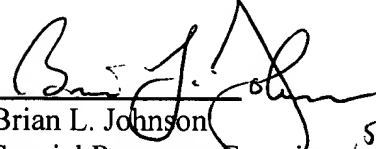
Decision on Petition

The reply provides a copy of the personal knowledge statement of mailing (2-page file copy of Prepaid Postcards and it provides the proof of actual receipt, the return receipt of the Prepaid Postcards (2-pages), above.

Petitioner has established that a response to the office action was filed on August 16, 2004.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED** and the Petition under 1.8(b) is dismissed as Moot.

The application file is being forwarded to the technical support staff to **WITHDRAW** the holding of abandonment and to process the amendment (copy filed August 18, 2004). Subsequently, the application file will be forwarded to the examiner for consideration of the response.

  
Brian L. Johnson  
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JC